



NEVADA COMMISSION ON ETHICS REPORT AND RECOMMENDATION REGARDING JUST AND SUFFICIENT CAUSE

REQUEST FOR OPINION NO.
06-42

SUBJECT: OSCAR B. GOODMAN, MAYOR
CITY OF LAS VEGAS

A. JURISDICTION:

In his capacity as Mayor of the City of Las Vegas, Oscar B. Goodman is a public officer as defined by NRS 281.4365. As such, the Nevada Commission on Ethics has jurisdiction over this complaint.

B. INVESTIGATIVE ACTIVITIES:

- Reviewed the following documents **(TAB B)**:
 - Request for Opinion (complaint) 06-42, received July 10, 2006 from Steve Miller
 - Supplemental information received July 25, 2006 from Mr. Miller, including news articles from the *Las Vegas Sun* and *Las Vegas Review Journal* and *Reno Gazette Journal* online and E-letters written by Mr. Miller
 - *Inside Vegas* E-letter written by Steve Miller dated July 7, 2007
- Reviewed the following documents **(TAB C)**:
 - Determination of lack of jurisdiction letters to requester from Commission on Ethics staff
 - Letter dated October 13, 2006 from requester appealing the determination to a Commission Panel
 - Transcript from the jurisdictional panel proceeding held on November 16, 2006
 - Letter dated November 21, 2006 from Commission staff to the requester regarding the acceptance of jurisdiction by the Panel
- Reviewed the following documents **(TAB D)**:
 - Notice to Subject, sent November 22, 2006
 - Waiver of Statutory Time Requirement received on November 28, 2006
 - Response received May 25, 2007 from Mr. Goodman
- Reviewed relevant *Campaign Contributions & Expenditure Reports* and *Financial Disclosure Statements* filed with the Las Vegas City Clerk and the Nevada Secretary of State **(TAB E)**
- Reviewed relevant Las Vegas City Council meeting verbatim transcriptions, Chapter 6.88 of the Las Vegas Municipal Code, and e-mail received from City of Las Vegas Business License Manager Jim DiFiore **(TAB F)**
- Reviewed relevant records located on the websites of the Nevada Secretary of State and Martindale-Hubbell **(TAB G)**
- Reviewed related Commission on Ethics Opinions **(TAB H)**

C. RECOMMENDATIONS:

Based on the results of investigation, it is recommended that the Panel find that just and sufficient cause **DOES NOT EXIST** for the Commission to hold a hearing and render an opinion in this matter relating to the provisions of:

- NRS 281.481(1)
- NRS 281.481(2)

SPECIFIC REASON:

Sufficient credible evidence does not exist to support a finding of just and sufficient cause for the Commission to hear the matter and render an opinion on whether Mr. Goodman violated the provisions of NRS 281.481(1) or NRS 281.481(2).

D. SUMMARY OF REQUEST FOR OPINION (COMPLAINT):

Mr. Miller alleges that Mr. Goodman violated NRS 281.481(1) and NRS 281.481(2). The following is the substance of the complaint:

From 2002 to mid-year 2006, Mr. Goodman refused to take disciplinary action regarding the privileged liquor license held by the *Crazy Horse Too* Strip Club ("Strip Club"). Mr. Goodman's conduct was based upon prior professional and business relationships that Mr. Goodman had with the owner and the manager of the Strip Club.

Mr. Goodman was a partner in the law firm known as *Goodman & Chesnoff, A Professional Corporation*. The owner, managers, and certain employees of the Strip Club, as well as others associated with those individuals are, or have been, clients of the *Goodman & Chesnoff* law firm. In 2003, the owner of the Strip Club donated \$40,000 to Oscar Goodman's uncontested re-election campaign.

As a result of guilty pleas to federal charges of racketeering and tax evasion by the corporation that owns the Strip Club (a violation of the Las Vegas Municipal Code 6.02.330(H)), Mr. Goodman made a motion, at the July 12, 2006 city council meeting, to accept a complaint for disciplinary action regarding possible revocation of the Strip Club's business license. In the late 1980's, Mr. Goodman was resident agent for the corporation that owns the Strip Club.

The matter was set for hearing on September 6, 2006, unless otherwise resolved. Mr. Goodman's motion followed a request by the owner of the Strip Club to be given an opportunity to meet one-on-one with each city council member to try to come to a compromise resolution prior to the public hearing. Mr. Goodman attempted to allow a resolution of the matter out of public view when he encouraged each city council member to meet privately with the owner of the Strip Club.

SUMMARY OF COMPLAINT (CONTINUED)

During a press conference on July 13, 2006, Mr. Goodman stated that he would participate in and vote on all matters being considered by the city council regarding the Strip Club. Mr. Goodman stated he would vote to allow the Strip Club to remain in business despite the guilty pleas to the federal charges.

Mr. Goodman's former law partner, David Chesnoff, represented an executive with the Strip Club in the matter heard by the city council on September 6, 2006. At the hearing, Mr. Goodman cited possible conflict of interest and abstained. However, the next day, Mr. Goodman announced that the conflict no longer existed because he severed his relationship with the law firm of *Goodman & Chesnoff*; therefore, he could preside over future hearings involving the Strip Club. Mr. Goodman realized he had a conflict of interest only after learning of Mr. Miller's complaint. Mr. Goodman's change of heart was after the fact, insincere, and irrelevant.

Mr. Goodman has a conflict of interest and should not vote or participate in discussions regarding matters considered by the city council that involve his past and present *Goodman & Chesnoff* clients.

E. SUMMARY OF SUBJECT'S RESPONSE:

Mr. Goodman submitted a waiver of the statutory time requirement and a response to the complaint. Mr. Goodman stated that there is no evidence that he violated either NRS 281.481(1) or (2). The following is a summary of his response:

The mayor of the City of Las Vegas does not have the authority to bring a business licensee before the city council on a disciplinary action. Las Vegas Municipal Code Chapter 6.88 requires a complaint for disciplinary action to be submitted by the director of finance to the city attorney. If the city attorney finds the complaint to be well founded, he submits a formal complaint for disciplinary action to the city council for approval. The city council must approve and set a hearing date. The complaint is then served on the complainant.

For years, Mr. Goodman has inquired of city staff in the finance director's office and city attorney's office regarding whether or not a basis existed upon which to bring the Strip Club before the city council. The response from city staff had been that no such basis existed. However, in 2006 the Strip Club owner and certain employees pled guilty to various federal felonies in district court. The Las Vegas city attorney immediately compiled the relevant documentation and drafted a disciplinary complaint. City staff advised the city council that there was no evidentiary basis upon which to bring a disciplinary complaint until the guilty pleas had been entered. The complaint was presented to the city council on July 12, 2006. Unaware that Mr. Chesnoff represented one of the Strip Club employees, Mr. Goodman presided over the meeting. Mr. Goodman overruled objections to the complaint from the Strip Club owner and voted for the motion to approve the complaint and set the matter for hearing.

SUMMARY OF RESPONSE (CONTINUED)

The hearing on the Complaint for Disciplinary Action against the Strip Club occurred on September 6, 2006. Before the September hearing, Mr. Goodman became aware that Mr. Chesnoff represented one of the employees associated with the Strip Club. Mr. Goodman was advised by the city attorney not to participate in the hearing; therefore, he did not participate. The six other members of the city council heard the matter, revoked the liquor license, and imposed a \$2,192,000 fine against the licensee. Mr. Goodman has not participated in any subsequent matters pertaining to this subject.

Regarding representation of past clients, Mr. Goodman's last representation of the owner of the Strip Club occurred 20 years ago and prior to being elected mayor. Mr. Goodman has no recollection of ever representing the Strip Club manager. Mr. Goodman stated that he does not have a substantial and continuing business relationship with either the owner or manager of the Strip Club.

Mr. Goodman stated that parties associated with the Strip Club donated \$40,000 to his 2003 campaign. The donation was fully disclosed pursuant to the election laws. Mr. Goodman stated that the election was contested with nine candidates running for the office of mayor.

F. RELEVANT STATUTES:

NRS 281.481 General requirements; exceptions. A code of ethical standards is hereby established to govern the conduct of public officers and employees:

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.

2. A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person. As used in this subsection:

(a) "Commitment in a private capacity to the interests of that person" has the meaning ascribed to "commitment in a private capacity to the interests of others" in subsection 8 of NRS 281.501.¹

(b) "Unwarranted" means without justification or adequate reason.

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¹**NRS 281.501(8):** As used in this section, "commitment in a private capacity to the interests of others" means a commitment to a person:

- (a) Who is a member of his household;
- (b) Who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity;
- (c) Who employs him or a member of his household;
- (d) With whom he has a substantial and continuing business relationship; or
- (e) Any other commitment or relationship that is substantially similar to a commitment or relationship described in this subsection.

G. RESULTS OF INVESTIGATION:

In an e-mail response to a commission staff inquiry, Jim DiFiore, License Manager of the City of Las Vegas Business Services Division (“BSD”), stated that Mr. Goodman inquired about the Strip Club on three or four occasions over several months during staff briefings on city council agendas. Specifically, Mr. Goodman inquired as to whether the BSD had been presented with any evidence that would cause Mr. DiFiore to seek a disciplinary complaint before the city council. Mr. DiFiore indicated that no evidence had been presented to the BSD at the time of Mr. Goodman’s inquiries.

Regarding the complaint process, Mr. DiFiore stated that complaints are received by e-mail, facsimile, regular mail, and telephone. The BSD investigates complaints that are within the purview of city business licensing codes (Title 6 of the Las Vegas Municipal Code). When appropriate, the BSD also refers complaints to the proper law enforcement or regulatory agency for action. In the case of a business, such as the *Crazy Horse Too* Strip Club, there may be mutual jurisdiction over a complaint. The BSD investigates any business license code violations and the Special Investigations Section of the Las Vegas Metropolitan Police Department investigates criminal complaints. In cases where the facts of the complaint are confirmed, the BSD, in cooperation with the city attorney's office, determines if any action – including disciplinary action – will be taken.

The verbatim transcript of the Las Vegas city council meeting of July 12, 2006 indicates that, immediately prior to the discussion and possible action regarding the complaint seeking disciplinary action against the Strip Club, Mr. Goodman made a disclosure regarding his relationship with Mr. Rizzolo, the owner of the Strip Club. Specifically, Mr. Goodman stated that he represented the owner approximately twenty-one years ago, and that the matter was concluded a long time ago. Mr. Goodman stated that he has no current business relationship with the owner but does consider him a friend. Mr. Goodman concluded his disclosure by stating that he believed he could vote because he holds no bias one way or the other. Las Vegas City Attorney Brad Jerbic advised Mr. Goodman that the passage of time had eliminated any conflict of interest related to the prior professional relationship. He further indicated that if Mr. Goodman could remain objective with respect to the friendship, he could vote on the matter. After discussion, Mr. Goodman made a motion to accept the complaint for disciplinary action and set the matter for September 6, 2006. The motion carried unanimously.

The verbatim transcript of the Las Vegas city council meeting of September 6, 2006 indicates that, immediately prior to the discussion and possible action regarding the complaint seeking disciplinary action against the Strip Club, Mr. Goodman disclosed a series of facts relating to his relationships with the owner of the Strip Club and Mr. Goodman’s former law firm partner, David Chesnoff. Mr. Goodman further disclosed that in the last three or four years, he has had no professional contact with the law firm but has maintained personal relationships with members in the law firm. Mr. Goodman stated that it had come to his attention that Mr. Chesnoff represented one of the parties associated with the Strip Club. Based upon the additional facts disclosed by Mr. Goodman, Mr. Jerbic advised Mr. Goodman to not only disclose, but also abstain from the proceedings. Mr. Goodman agreed to abstain and passed the gavel to Mayor Pro-Tem Reese, who then conducted the disciplinary action proceeding.

The verbatim transcript of the Las Vegas city council meeting of October 18, 2006 indicates that, immediately prior to the discussion and possible action regarding temporary approval of a new

RESULTS OF INVESTIGATION (CONTINUED)

tavern license to the Strip Club, Mr. Goodman asked Mr. Jerbic if Mr. Goodman had a conflict of interest. Mr. Jerbic indicated that Mr. Goodman should abstain due to the conflict of interest relating to his relationship with his former law firm partner, Mr. Chesnoff and Mr. Chesnoff's involvement with this series of cases. Mr. Goodman passed the gavel to Mayor Pro-Tem Reese, who then conducted the proceeding regarding the temporary approval of the new tavern license.

David Chesnoff is listed on the Martindale-Hubbell website under the firm of Chesnoff & Schonfeld. According to the listing, the law firm was preceded by the partnership between Mr. Goodman and Mr. Chesnoff, beginning in 1987. The firm profile states, in part, "[a]fter Mr. Goodman was elected Mayor of Las Vegas he remained a partner until 2001. Since he devoted 100% of his time to the citizens of Las Vegas, Nevada, he decided to retire from the firm. Upon that occurrence, the firm changed its name to Chesnoff & Schonfeld."

A review of the 2003 campaign contributions and expenditure reports reveals that contributions totaling \$15,000 can conclusively be identified as contributed by the owner(s) of the Strip Club or entities associated with the Strip Club. In his response, Mr. Goodman indicates that he had received contributions totaling \$40,000 from parties associated with the Strip Club, and those contributions had been properly disclosed according to the election laws. It is alleged in the complaint that Mr. Rizzolo donated \$40,000. The documentation submitted with the complaint includes an article from the *Las Vegas Review Journal* entitled "Crazy Horse cash". The article states that Mr. Goodman received \$40,000 in the past decade and cites the information source as campaign disclosure reports.

H. CONCLUSION:

Allegations regarding NRS 281.481(1) & (2):

There is no credible evidence to suggest that Mr. Goodman sought or accepted any gift, service, favor, employment, engagement, emolument or economic opportunity that would tend improperly to influence him in his position to depart from the faithful and impartial discharge of his public duties.

There is insufficient evidence to support the allegation that Mr. Goodman used his position as mayor to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person.

The complaint suggests that Mr. Goodman refused to take disciplinary action regarding the privileged liquor license held by the Strip Club based upon his prior professional and business relationships with both the owner and manager of the Strip Club. To the contrary, the business license manager for the City of Las Vegas stated that Mr. Goodman inquired over several months, on three or four separate occasions, regarding any information that might cause the BSD to seek a disciplinary complaint against the Strip Club. When the BSD received such information in 2006, the city council was presented with evidence at its July 12, 2006 meeting supporting a disciplinary complaint against the Strip Club. After discussion, Mr. Goodman made a motion to accept the complaint for disciplinary action and set the matter for September 6, 2006. The motion carried unanimously.

CONCLUSION (CONTINUED)

The complaint states that in 2003, the owner of the Strip Club donated \$40,000 to Oscar Goodman's uncontested re-election campaign. In a prior opinion (CEO 95-51), the Commission on Ethics opined that the test to determine a violation of NRS 281.481(1) is whether the campaign contribution would improperly influence a reasonable person in the position of the recipient of the contribution to depart from the faithful and impartial discharge of his public duties. The commission stated that the test involves the consideration of such factors as the amount of the contribution, the identity of the donor, and the timing of the gift. In this instance, the \$40,000 contribution(s) are less than ten percent of total contributions received; the sources and amounts of the campaign contributions were properly reported; and, there is no evidence of an express quid pro quo between Mr. Goodman and the donor(s). The donation(s) occurred in 2003. Mr. Goodman acted on the motion to accept the complaint for disciplinary action against the Strip Club in 2006. Mr. Goodman subsequently abstained from further participation in the matter. Further, the warranted actions taken by Mr. Goodman were of no benefit to the contributor(s).

The complaint suggests that Mr. Goodman had a commitment in a private capacity to his former client, Mr. Rizzolo. No evidence exists to indicate that any of the relationships described by NRS 281.501(8) currently exist between Mr. Goodman and Mr. Rizzolo. Immediately prior to the discussion and possible action at the city council's July 12, 2006 meeting regarding the complaint seeking disciplinary action against the Strip Club, Mr. Goodman disclosed his relationship with his former client. Mr. Goodman stated that he has no current business relationship with his former client – but does consider him a friend. Mr. Goodman further stated that he believed he could vote because he holds no bias one way or the other. Las Vegas City Attorney Brad Jerbic advised Mr. Goodman that the passage of time had eliminated any conflict of interest related to the prior professional relationship. Mr. Jerbic further indicated that if Mr. Goodman could remain objective with respect to the friendship, he could vote on the matter.

The complaint suggests that Mr. Goodman had a significant pecuniary interest in his former law firm, thereby creating a conflict of interest involving his former law partner, David Chesnoff. Mr. Chesnoff represented an executive of the Strip Club in the disciplinary complaint heard by the city council on September 6, 2006 and the matter of the temporary approval of a new tavern license for the Strip Club on October 18, 2006. When Mr. Goodman discovered that Mr. Chesnoff represented one of the parties involved in the series of cases that were heard by the city council at both meetings, he disclosed facts regarding his relationship with Mr. Chesnoff and abstained from acting any further on the matter.

I. RECOMMENDATION:

There is no credible evidence to substantiate a potential violation of NRS 281.481(1) or NRS 281.481(2). Accordingly, it is recommended that the panel find just and sufficient cause **DOES NOT EXIST** for the Commission to hold a hearing and render an opinion regarding whether Mr. Goodman violated the provisions of NRS 281.481(1) or NRS 281.481(2).

PREPARED BY: Matt C. DiOrio DATED: 10/11/07
MATT C. DI ORIO
SENIOR INVESTIGATOR